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HOUSE BILL 934

**43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997**

INTRODUCED BY

GARY K. KING

AN ACT

RELATING TO PUBLIC REGULATION; ENACTING THE PUBLIC REGULATION  
COMMISSION ACT; PROVIDING FOR POWERS AND DUTIES; TRANSFERRING  
BUDGETS, FUNDS, PERSONNEL, PROPERTY, CONTRACTS, OTHER  
OBLIGATIONS; IMPOSING PENALTIES; AMENDING, REPEALING AND  
ENACTING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. [NEW MATERIAL] SHORT TITLE. -- Sections 1  
through 13 of this act may be cited as the "Public Regulation  
Commission Act".

Section 2. [NEW MATERIAL] PURPOSE OF ACT. -- The purpose of  
the Public Regulation Commission Act is to provide for the  
manner in which the commission shall carry out its  
responsibilities under Article 11 of the constitution of New  
Mexico. The Public Regulation Commission Act is also designed

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1 to ensure that all laws previously applicable to the agencies  
2 that preceded the commission remain in full force and effect,  
3 unless and until further amended by law. This includes enacting  
4 into statute provisions previously included in the constitution  
5 of New Mexico and thereby preserving case law interpretations of  
6 those provisions.

7 Section 3. [NEW MATERIAL] DEFINITIONS. --As used in the  
8 Public Regulation Commission Act:

- 9 A. "commission" means the public regulation  
10 commission;  
11 B. "commissioner" means a member of the commission;  
12 and  
13 C. "person" means a natural person or other entity  
14 recognized by law.

15 Section 4. [NEW MATERIAL] PUBLIC REGULATION COMMISSION--  
16 CREATION. --The "public regulation commission", consisting of  
17 five commissioners, is created as provided in Article 11,  
18 Section 1 of the constitution of New Mexico. The commissioners  
19 shall be elected from districts as provided in the Public  
20 Regulation Commission Act.

21 Section 5. [NEW MATERIAL] COMMISSIONERS-- ELECTION--  
22 TERMS. --

- 23 A. Commissioners shall be elected at the general  
24 election for staggered four-year terms, beginning on January 1  
25 next following their election; provided that the first election

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1 of commissioners and the initial terms of those commissioners  
2 shall be as provided in Subsection B of this section.

3 B. Five commissioners shall be elected at the first  
4 election of commissioners in 1998. The commissioners elected at  
5 the first election shall immediately classify themselves by lot,  
6 so that two of the five elected shall hold office for an initial  
7 two-year term and three for an initial four-year term.  
8 Thereafter, all terms shall be for four years; provided that if  
9 a vacancy occurs prior to completion of a term, the vacancy  
10 shall be filled for the unexpired term only.

11 C. After serving two consecutive terms, including  
12 the initial two-year terms of the two commissioners chosen by  
13 lot after the first election, a commissioner is ineligible to  
14 hold office as a commissioner until one full four-year term has  
15 intervened.

16 Section 6. COMMISSIONER DISTRICTS. -- One commissioner shall  
17 be elected from each of the following districts:

18 A. commissioner district one shall consist of the  
19 first and fourth state board of education districts;

20 B. commissioner district two shall consist of the  
21 second and third state board of education districts;

22 C. commissioner district three shall consist of the  
23 fifth and tenth state board of education districts;

24 D. commissioner district four shall consist of the  
25 eighth and ninth state board of education districts; and

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1           E. commissioner district five shall consist of the  
2 sixth and seventh state board of education districts.

3           Section 7. [NEW MATERIAL] COMMISSION ORGANIZATIONAL  
4 UNITS. -- The commission's administrative structure shall consist  
5 of the following divisions and any other organizational units  
6 created by law or commission order, including:

- 7           A. the administrative services division;
- 8           B. the corporation department;
- 9           C. the insurance department;
- 10          D. the motor carrier division;
- 11          E. the pipeline division;
- 12          F. the office of the state fire marshal;
- 13          G. the public utility division; and
- 14          H. the telecommunications division.

15           Section 8. [NEW MATERIAL] COMMISSION GENERAL POWERS AND  
16 DUTIES. --

17           A. The commission shall administer and enforce the  
18 laws with which it is charged.

19           B. To perform its duties, the commission has every  
20 power expressly conferred by law. In order to effectuate its  
21 powers and carry out its duties, the commission:

22                   (1) may, except as otherwise provided by law,  
23 exercise general supervisory and appointing authority over  
24 commission employees, subject to the Personnel Act;

                  (2) may, delegate authority to subordinates as

1 the commission deems necessary and appropriate, clearly  
2 delineating such delegated authority and its limitations;

3 (3) may organize the commission staff into  
4 those organizational units that the commission deems will enable  
5 it to function most efficiently, subject to any provisions of  
6 law recognizing or establishing specific organizational units;

7 (4) may, within the limitations of available  
8 appropriations and except as provided otherwise by law, employ  
9 and fix the compensation of those persons necessary to discharge  
10 the commission's duties;

11 (5) may take administrative action by issuing  
12 orders and instructions, not inconsistent with the law, to  
13 assure implementation of and compliance with the provisions of  
14 law for which the commission is responsible and to enforce those  
15 orders and instructions by appropriate administrative action and  
16 court proceedings;

17 (6) may conduct research and studies to improve  
18 the commission's operations or to improve the provision of  
19 services to the citizens of the state;

20 (7) may investigate any person, as necessary,  
21 to carry out the commission's responsibilities;

22 (8) may provide courses of instruction and  
23 practical training for commission employees and other persons  
24 with the objective of improving operations and efficiency;

25 (9) shall prepare the commission's annual

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1 budget;

2 (10) shall elect annually by majority vote a  
3 chairperson, who shall have general administrative  
4 responsibility for commission operations;

5 (11) shall give bond as provided in the Surety  
6 Bond Act. The commission shall pay the cost of the bond;

7 (12) shall require faithful performance or  
8 other fidelity bonds of such commission employees and officers  
9 as the commission deems necessary, as provided in the Surety  
10 Bond Act. The commission shall pay the costs of any such bonds;

11 (13) may apply for and receive in the name of  
12 the commission or the state any public or private funds,  
13 including United States government funds, available to carry out  
14 the commission's responsibilities, powers and duties; and

15 (14) may adopt such reasonable administrative,  
16 regulatory and procedural rules and regulations as may be  
17 necessary or appropriate to carry out its responsibilities,  
18 powers and duties; provided that this provision does not modify  
19 or supersede statutory authority to adopt rules and regulations  
20 with regard to specific areas of regulation. Unless otherwise  
21 provided by statute, no regulation affecting a person other than  
22 the commission and its employees shall be adopted, amended or  
23 repealed except after a public hearing before the commission or  
24 its designated hearing officer. Notice of the subject matter of  
25 the regulation, the action proposed to be taken, the time and

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1 place of the hearing, the manner in which interested persons may  
2 present their views and the method by which copies of the  
3 proposed regulation, amendment or repealing provisions may be  
4 obtained shall be published at least once not less than thirty  
5 days prior to the hearing date in a newspaper of general  
6 circulation and mailed not less than thirty days prior to the  
7 hearing date to all persons who have made a written request for  
8 advance notice of hearings. All rules and regulations shall be  
9 filed in accordance with the State Rules Act.

10 C. A majority of the commissioners constitutes a  
11 quorum for the transaction of any business, for the performance  
12 of any duty or for the exercise of any power of the commission.  
13 The act of a majority of the commissioners shall be the act of  
14 the commission.

15 D. The attorney general shall advise, represent and  
16 appear for the commission in all court proceedings. In  
17 addition, subject to the attorney general's consent and  
18 approval, the commission may employ or contract with competent  
19 attorneys to advise the commission and handle in-house legal  
20 matters and administrative proceedings. If commissioned by the  
21 attorney general, commission attorneys may represent the  
22 commission in court proceedings as well.

23 Section 9. [NEW MATERIAL] COMMISSION POWERS AND DUTIES--  
24 CORPORATIONS AND OTHER BUSINESS ENTITIES.--With respect to  
25 corporations and other business entities placed under the

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1 commission's regulatory authority by law, the commission shall:

2 A. accept, review, approve or disapprove and  
3 preserve all filings of documents, including articles of  
4 incorporation, articles of organization, articles of  
5 dissolution, amendments, annual reports and other corporate and  
6 business entity documents as provided by law;

7 B. issue certificates of incorporation, corporate  
8 charters, certificates of good standing and other certificates  
9 and documents as the commission deems appropriate;

10 C. collect and deposit all fees with the state  
11 treasurer; and

12 D. carry out all duties and exercise all powers  
13 provided by law.

14 Section 10. [NEW MATERIAL] COMMISSION POWERS AND DUTIES--  
15 PUBLIC UTILITIES.--With respect to public utilities, including  
16 utilities supplying natural gas, electricity, water, and sewer  
17 services, the commission shall carry out its duties and exercise  
18 its powers as provided by law.

19 Section 11. [NEW MATERIAL] COMMISSION POWERS AND DUTIES--  
20 TRANSPORTATION AND TRANSMISSION COMPANIES AND COMMON CARRIERS--  
21 APPEALS.--

22 A. With respect to transportation and transmission  
23 companies and common carriers, the commission shall:

24 (1) fix, determine, supervise, regulate and  
25 control all charges and rates of railway, express, telegraph,

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1 telephone, sleeping car and other transportation and  
2 transmission companies and common carriers within the state;

3 (2) determine any matters of public convenience  
4 and necessity with respect to matters subject to its regulatory  
5 authority as provided by law;

6 (3) require railway companies and other common  
7 carriers to provide and maintain adequate equipment, depots,  
8 stockpens, station buildings, agents and facilities for the  
9 accommodation of shippers and passengers and for receiving and  
10 delivering freight and express and to provide and maintain  
11 necessary crossings, culverts, sidings and other facilities for  
12 convenience and safety whenever in the commission's judgment the  
13 public interest demands;

14 (4) require intrastate railways, transportation  
15 companies and common carriers to provide such reasonable safety  
16 appliances and use such reasonable safety practices as may be  
17 necessary and proper for the safety of employees and the public;

18 (5) change, amend and rescind rates;

19 (6) adopt, amend and rescind rules and  
20 regulations;

21 (7) enforce its rules and regulations through  
22 administrative sanctions and in the courts; and

23 (8) carry out all other duties and have all  
24 other powers provided by law.

25 B. In fixing rates of telephone and telegraph

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1 companies, due consideration shall be given to the earnings,  
2 investment and expenditure as a whole within the state. The  
3 commission shall include in that consideration the earnings,  
4 investment and expenditures derived from or related to the sale  
5 of directory advertising and other directory listing services.

6 C. No change in a rate, fare or charge shall be  
7 collected by any telephone or telegraph company or common  
8 carrier until the proposed change is approved by the commission  
9 or, if subject to appeal under this section, until approved by  
10 the supreme court except as provided otherwise in this section.

11 D. The commission may subpoena witnesses and  
12 documents, enforce its subpoenas through any court and, through  
13 the court, punish for contempt.

14 E. The commission has the power, after notice and  
15 hearing of record, to determine and decide any question and to  
16 issue orders relating to its powers and duties under this  
17 section and Article 11, Section 2 of the constitution of New  
18 Mexico.

19 F. Any interested party may appeal from an order of  
20 the commission made pursuant to its powers and duties under this  
21 section and Article 11, Section 2 of the constitution of New  
22 Mexico by filing a notice of appeal with the commission not more  
23 than thirty days after the date the order is entered. The  
24 commission shall transfer and certify the complete record to the  
25 supreme court, including the docket file, docketing sheet,

1 transcripts or tapes and exhibits, not more than thirty days  
2 after the date the order is entered. The appellant shall pay  
3 the costs of preparing and transmitting the record to the  
4 commission.

5 G. The pendency of an appeal shall not automatically  
6 stay the order appealed from. The appellant shall seek to  
7 obtain a stay from the commission or the supreme court.

8 H. The appeal shall be on the record of the hearing  
9 before the commission and shall be governed by the appellate  
10 rules applicable to administrative appeals. The supreme court  
11 shall affirm the commission's order unless it is:

12 (1) arbitrary, capricious or an abuse of  
13 discretion;

14 (2) not supported by substantial evidence in  
15 the record; or

16 (3) otherwise not in accordance with law.

17 I. In the case of a failure or refusal of any person  
18 to comply with an order of the commission within the time  
19 prescribed in the order or within thirty days after the order is  
20 entered, whichever is later, unless a stay has been granted, the  
21 commission shall seek enforcement of the order in the supreme  
22 court. The enforcement hearing shall be held on an expedited  
23 basis. At the hearing, the sole question shall be whether the  
24 person has failed to comply with or violated the order.

25 Section 12. [NEW MATERIAL] COMMISSION POWERS AND DUTIES--

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1 INSURANCE DIVISION AND STATE FIRE MARSHAL. -- With respect to the  
2 insurance division and the office of the state fire marshal  
3 [~~division~~], the commission shall carry out its duties and  
4 exercise its powers through those agencies as provided by law.

5 Section 13. PUBLIC REGULATION COMMISSION--ACCEPTING OR  
6 OFFERING ANYTHING OF VALUE--CONFLICTS OF INTEREST--PENALTY. --

7 A. No commissioner, candidate for that office or  
8 person acting on behalf of either a commissioner or candidate  
9 shall accept anything of value from a person whose charges for  
10 services to the public are regulated by the commission.

11 B. No person whose charges for services to the  
12 public are regulated by the commission shall offer, pledge,  
13 donate, pay, give or grant anything of value, directly or  
14 indirectly, to a commissioner or candidate for that office or to  
15 a person acting on behalf of a commissioner or candidate in any  
16 capacity. The prohibition of this subsection extends to the  
17 regulated person's officers, employees, servants and agents.

18 C. No commissioner who is financially interested in  
19 a matter pending before the commission shall act on the matter.

20 D. The attorney general or a district attorney may  
21 institute a civil action in district court for enforcement of  
22 this section. An action for relief may include a permanent or  
23 preliminary injunction, a restraining order or any other  
24 appropriate order, including a civil penalty of not more than  
25 five thousand dollars (\$5,000) for each violation, and

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1 forfeiture to the state of anything of value received in  
2 violation of the provisions of this section. Each unlawful  
3 offer, pledge, donation, payment, gift or grant, and each  
4 receipt of any these, shall constitute a separate violation.

5 E. A person who knowingly and willfully violates a  
6 provision of this section is guilty of the following classes of  
7 crimes, subject to the penalties provided in the Criminal  
8 Sentencing Act for felonies and in Section 31-19-1 NMSA 1978 for  
9 misdemeanors:

10 (1) where the amount is one hundred dollars  
(\$100) or less, a petty misdemeanor;

11 (2) where the amount is over one hundred  
12 dollars (\$100) but not more than two hundred fifty dollars  
13 (\$250), a misdemeanor;

14 (3) where the amount is over two hundred fifty  
15 dollars (\$250) but not more than two thousand five hundred  
16 dollars (\$2,500), a fourth degree felony;

17 (4) where the amount is over two thousand five  
18 hundred dollars but not more than twenty thousand dollars  
(\$20,000), a third degree felony; and

19 (5) where the amount is over twenty thousand  
20 dollars (\$20,000), a second degree felony.

21 F. As used in this section, "anything of value"  
22 means an aggregate value in any calendar year of more than  
23 twenty-five dollars (\$25.00).

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1 Section 14. Section 8-1-1 NMSA 1978 (being Laws 1971,  
2 Chapter 260, Section 1, as amended) is amended to read:

3 "8-1-1. COMPENSATION OF ELECTIVE STATE OFFICERS. --

4 A. Annual compensation of elective state officers  
5 shall be paid as follows:

6	governor. . . . .	\$90, 000
7	secretary of state. . . . .	65, 000
8	state auditor . . . . .	65, 000
9	state treasurer . . . . .	65, 000
10	attorney general. . . . .	72, 500
11	commissioner of public lands. . . . .	72, 500
12	[state corporation] <u>public regulation</u> commissioner . . . . .	[65,000]

13 72, 500.

14 B. Any person succeeding to the office of governor  
15 as provided in Article 5, Section 7 of the constitution of New  
16 Mexico shall receive the salary of the office. Every person  
17 serving as acting governor during the incapacity or absence of  
18 the governor from the state, other than the secretary of state,  
19 shall receive one hundred fifty dollars (\$150) as compensation  
20 for each day's service as acting governor.

21 C. All compensation under this section shall be paid  
22 from the general fund, except that the amount paid to the  
23 commissioner of public lands shall be paid from the state [~~land~~  
~~office~~] lands maintenance fund. "

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1           Section 15. Section 53-8-2 NMSA 1978 (being Laws 1975,  
2 Chapter 217, Section 2, as amended) is amended to read:

3           "53-8-2. DEFINITIONS. --As used in the Nonprofit  
4 Corporation Act, unless the context otherwise requires, the  
5 term:

6           A. "corporation" or "domestic corporation" means a  
7 nonprofit corporation subject to the provisions of the Nonprofit  
8 Corporation Act, except a foreign corporation;

9           B. "foreign corporation" means a nonprofit  
10 corporation organized under laws other than the laws of New  
11 Mexico for a purpose [~~or purposes~~] for which a corporation may  
12 be organized under the Nonprofit Corporation Act;

13           C. "nonprofit corporation" means a corporation, no  
14 part of the income or profit of which is distributable to its  
15 members, directors or officers;

16           D. "articles of incorporation" means the original or  
17 restated articles of incorporation or articles of consolidation  
18 and all amendments thereto, including articles of merger;

19           E. "bylaws" means the code [~~or codes~~] of rules  
20 adopted for the regulation or management of the affairs of the  
21 corporation, irrespective of the name [~~or names~~] by which such  
22 rules are designated;

23           F. "member" means one having membership rights in a  
24 corporation in accordance with the provisions of its articles of  
25 incorporation or bylaws;

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1           G. "board of directors" means the group of persons  
2 vested with the management of the affairs of the corporation,  
3 irrespective of the name by which such group is designated;

4           H. "insolvent" means inability of a corporation to  
5 pay its debts as they become due in the usual course of its  
6 affairs;

7           I. "commission" or "corporation commission" means  
8 the ~~[state corporation]~~ public regulation commission or its  
9 delegate;

10          J. "address" means:

11               (1) the mailing address and the street address,  
12 if within a municipality; or

13               (2) the mailing address and a rural route  
14 number and box number, if any, or the geographical location,  
15 using well-known landmarks, if outside a municipality;

16          K. "duplicate original" means a document ~~[which]~~  
17 that is signed or executed in duplicate;

18          L. "delivery" means:

19               (1) if personally served, the date  
20 documentation is received by the commission's corporation  
21 department; and

22               (2) if mailed to the commission, the date of  
23 the postmark plus three days, upon proof thereof by the party  
24 delivering the documentation; and

25          M. "person" includes individuals, partnerships,

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1 corporations and other associations. "

2 Section 16. Section 53-11-2 NMSA 1978 (being Laws 1967,  
3 Chapter 81, Section 2, as amended) is amended to read:

4 "53-11-2. DEFINITIONS. --As used in the Business  
5 Corporation Act, unless the text otherwise requires:

6 A. "corporation" or "domestic corporation" means a  
7 corporation for profit subject to the provisions of the Business  
8 Corporation Act, except a foreign corporation;

9 B. "foreign corporation" means a corporation for  
10 profit organized under laws other than the laws of this state  
11 for a purpose [~~or purposes~~] for which a corporation may be  
12 organized under the Business Corporation Act;

13 C. "articles of incorporation" means the original or  
14 restated articles of incorporation or articles of consolidation  
15 and all amendments thereto, including articles of merger;

16 D. "shares" means the units into which the  
17 proprietary interests in a corporation are divided;

18 E. "subscriber" means one who subscribes for shares  
19 in a corporation, whether before or after incorporation;

20 F. "shareholder" means one who is a holder of record  
21 of shares in a corporation;

22 G. "authorized shares" means the shares of all  
23 classes [~~which~~] that the corporation is authorized to issue;

24 H. "annual report" means the corporate report  
25 required by the Corporate Reports Act;

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1 I. "distribution" means a direct or indirect  
2 transfer of money or other property (except its own shares) or  
3 incurrence of indebtedness, by a corporation to or for the  
4 benefit of any of its shareholders in respect of any of its  
5 shares, whether by dividend or by purchase redemption or other  
6 acquisition of its shares, or otherwise;

7 J. "franchise tax" means the franchise tax imposed  
8 by the Corporate Income and Franchise Tax Act;

9 K. "fees" means the fees imposed by Section 53-2-1  
10 NMSA 1978;

11 L. "commission" means the [~~state corporation~~] public  
12 regulation commission or its delegate;

13 M "address" means:

14 (1) the mailing address and the street address,  
15 if within a municipality; or

16 (2) the mailing address and a rural route  
17 number and box number, if any, or the geographical location,  
18 using well-known landmarks, if outside a municipality;

19 N. "duplicate original" means a document [~~which~~]  
20 that is signed or executed in duplicate;

21 O. "delivery" means:

22 (1) if personally served, the date on which the  
23 documentation is received by the commission's corporation  
24 department; and

25 (2) if mailed, the date of the postmark plus

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1 three days, upon proof thereof by the party delivering the  
2 documentation; and

3 P. "person" includes individuals, partnerships,  
4 corporations and other associations. "

5 Section 17. Section 53-19-2 NMSA 1978 (being Laws 1993,  
6 Chapter 280, Section 2) is amended to read:

7 "53-19-2. DEFINITIONS. --As used in the Limited Liability  
8 Company Act:

9 A. "articles of organization" means the original or  
10 restated articles filed pursuant to the Limited Liability  
11 Company Act and any amendments to those articles, including  
12 articles of merger or consolidation;

13 B. "corporation" means an organization incorporated  
14 under the laws of New Mexico or a foreign corporation;

15 C. "commission" means the [~~state corporation~~] public  
16 regulation commission or its designee;

17 D. "court" means a court having jurisdiction in the  
18 case;

19 E. "event of dissociation" means an event that  
20 causes a person to cease to be a member of a limited liability  
21 company;

22 F. "foreign corporation" means a corporation that is  
23 organized under the laws of another state or a foreign country;

24 G. "foreign limited liability company" means an  
25 entity that is:

- 1 (1) an unincorporated association;
- 2 (2) organized under the laws of another state
- 3 or foreign country;
- 4 (3) organized under a statute pursuant to which
- 5 an association may be formed that affords to each of its members
- 6 limited liability with respect to the liabilities of the entity;
- 7 and
- 8 (4) is not required to be registered or
- 9 organized under the laws of New Mexico other than the Limited
- 10 Liability Company Act;

11 H. "foreign limited partnership" means a limited

12 partnership formed under the laws of another state or a foreign

13 country;

14 I. "limited liability company" or "domestic limited

15 liability company" means an organization formed pursuant to the

16 provisions of the Limited Liability Company Act;

17 J. "limited liability company interest" means a

18 member's or assignee's right to receive distributions and a

19 return of capital from the limited liability company. A

20 member's or assignee's limited liability company interest does

21 not include rights the member or assignee has on account of

22 other matters, such as a right to receive accrued salary for

23 services the member or assignee rendered to, repayment of a loan

24 the member or assignee made to or indemnification by the limited

25 liability company;

1           K. "limited partnership" means a limited partnership  
2 under the laws of New Mexico or a foreign limited partnership;

3           L. "manager" means, with respect to a limited  
4 liability company that has included a statement in its articles  
5 of organization that it is to be managed by a manager [~~or~~  
6 ~~managers~~], the person [~~or persons~~] designated as [~~managers~~]  
7 manager in accordance with the articles of organization or an  
8 operating agreement;

9           M. "member" means a person who has been admitted to  
10 membership in a limited liability company and who has not  
11 dissociated from that company;

12           N. "membership interest" or "interest" means a  
13 member's limited liability company interest and his rights to  
14 participate in management and control of the limited liability  
15 company;

16           O. "operating agreement" means a written agreement  
17 providing for the conduct of the business and affairs of a  
18 limited liability company and that agreement as amended in  
19 writing;

20           P. "person" means an individual, a general  
21 partnership, a limited partnership, a domestic or foreign  
22 limited liability company, a trust, an estate, an association, a  
23 corporation or any other legal entity; and

24           Q. "state" means a state, territory or possession of  
25 the United States, the District of Columbia or the commonwealth

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1 of Puerto Rico. "

2 Section 18. Section 59A-1-4 NMSA 1978 (being Laws 1984,  
3 Chapter 127, Section 4) is amended to read:

4 "59A-1-4. "CORPORATION COMMISSION" OR "PUBLIC REGULATION  
5 COMMISSION". -- "Corporation commission" or "public regulation  
6 commission" means the [~~state corporation~~] public regulation  
7 commission [~~of New Mexico~~]. "

8 Section 19. Section 62-3-3 NMSA 1978 (being Laws 1967,  
9 Chapter 96, Section 3, as amended) is amended to read:

10 "62-3-3. DEFINITIONS, WORDS AND PHRASES. -- Unless otherwise  
11 specified, when used in the Public Utility Act:

12 A. "affiliated interest" means a person who directly  
13 or indirectly, through one or more intermediaries, controls or  
14 is controlled by or is under common control with a public  
15 utility. Control includes instances where a person is an  
16 officer, director, partner, trustee or person of similar status  
17 or function or who owns directly or indirectly or has a  
18 beneficial interest in ten percent or more of any class of  
19 securities of a person;

20 B. "commission" means the [~~New Mexico public~~  
21 utility] public regulation commission;

22 C. "commissioners" means any member of the  
23 commission;

24 D. "municipality" means any municipal corporation  
25 organized under the laws of the state and H class counties;

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1           E. "person" means individuals, firms, partnerships,  
2 companies, rural electric cooperatives organized under Laws  
3 1937, Chapter 100 or the Rural Electric Cooperative Act, as  
4 amended, corporations and lessees, trustees or receivers  
5 appointed by any court. It shall not mean any class A county as  
6 described by Section 4-36-10 NMSA 1978 or any class B county as  
7 described by Section 4-36-8 NMSA 1978. It shall not mean any  
8 municipality as defined in this section unless the municipality  
9 has elected to come within the terms of the Public Utility Act  
10 as provided in Section 62-6-5 NMSA 1978. In the absence of  
11 [such] voluntary election by [any] a municipality to come within  
12 the provisions of the Public Utility Act, the municipality shall  
13 be expressly excluded from the operation of that act and from  
14 the operation of all of its provisions, and no such municipality  
15 shall for any purpose be considered a public utility;

16           F. "securities" means stock, stock certificates,  
17 bonds, notes, debentures, mortgages or deeds of trust or other  
18 evidences of indebtedness issued, executed or assumed by any  
19 utility;

20           G. "public utility" or "utility" means every person  
21 not engaged solely in interstate business and, except as stated  
22 in Sections 62-3-4 and 62-3-4.1 NMSA 1978, that [now does or  
23 hereafter] may own, operate, lease or control:

24           (1) any plant, property or facility for the  
25 generation, transmission or distribution, sale or furnishing to

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1 or for the public of electricity for light, heat or power or  
2 other uses;

3 (2) any plant, property or facility for the  
4 manufacture, storage, distribution, sale or furnishing to or for  
5 the public of natural or manufactured gas or mixed or liquefied  
6 petroleum gas, for light, heat or power or for other uses; but  
7 the term "public utility" or "utility" shall not include any  
8 plant, property or facility used for or in connection with the  
9 business of the manufacture, storage, distribution, sale or  
10 furnishing of liquefied petroleum gas in enclosed containers or  
11 tank truck for use by others than consumers who receive their  
12 supply through any pipeline system operating under municipal  
13 authority or franchise and distributing to the public;

14 (3) any plant, property or facility for the  
15 supplying, storage, distribution or furnishing to or for the  
16 public of water for manufacturing, municipal, domestic or other  
17 uses; provided, however, nothing contained in this paragraph  
18 shall be construed to apply to irrigation systems, the chief or  
19 principal business of which is to supply water for the purpose  
20 of irrigation;

21 (4) any plant, property or facility for the  
22 production, transmission, conveyance, delivery or furnishing to  
23 or for the public of steam for heat or power or other uses; or

24 (5) any plant, property or facility for the  
25 supplying and furnishing to or for the public of sanitary sewers

1 for transmission and disposal of sewage produced by  
2 manufacturing, municipal, domestic or other uses; provided that  
3 the terms "public utility" or "utility" as used in the Public  
4 Utility Act do not include any utility owned or operated by any  
5 class A county as described in Section 4-36-10 NMSA 1978 either  
6 directly or through a corporation owned by or under contract  
7 with such a county;

8 H. "rate" means every rate, tariff, charge or other  
9 compensation for utility service rendered or to be rendered by  
10 any utility and every rule, regulation, practice, act,  
11 requirement or privilege in any way relating to such rate,  
12 tariff, charge or other compensation and any schedule or tariff  
13 or part of a schedule or tariff thereof;

14 I. "service" or "service regulation" means every  
15 rule, regulation, practice, act or requirement in any way  
16 relating to the service or facility of a utility;

17 J. "Class I transaction" means the sale, lease or  
18 provision of real property, water rights or other goods or  
19 services by an affiliated interest to any public utility with  
20 which it is affiliated or by a public utility to its affiliated  
21 interest;

22 K. "Class II transaction" means:

23 (1) the formation after May 19, 1982 of a  
24 corporate subsidiary by a public utility or a public utility  
25 holding company by a public utility or its affiliated interest;

1 (2) the direct acquisition of the voting  
2 securities or other direct ownership interests of a person by a  
3 public utility if such acquisition would make the  
4 utility the owner of ten percent or more of the voting  
5 securities or other direct ownership interests of that person;

6 (3) the agreement by a public utility to  
7 purchase securities or other ownership interest of a person  
8 other than a nonprofit corporation, contribute additional equity  
9 to, acquire additional equity interest in or pay or guarantee  
10 any bonds, notes, debentures, deeds of trust or other evidence  
11 of indebtedness of any such person; provided, however, that a  
12 public utility may honor all agreements entered into by such  
13 utility prior to May 19, 1982; or

14 (4) the divestiture by a public utility of any  
15 affiliated interest that is a corporate subsidiary of the public  
16 utility;

17 L. "corporate subsidiary" means any person ten  
18 percent or more of whose voting securities or other ownership  
19 interests are directly owned by a public utility; and

20 M. "public utility holding company" means an  
21 affiliated interest that controls a public utility through the  
22 direct or indirect ownership of voting securities of such public  
23 utility."

24 Section 20. Section 59A-13-2 NMSA 1978 (being Laws 1984,  
25 Chapter 127, Section 230, as amended) is amended to read:

1 "59A-13-2. DEFINITIONS. --

2 A. For the purposes of the Insurance Code:

3 (1) "adjuster" is any person:

4 (a) who or which investigates,  
5 negotiates, settles or adjusts losses or claims arising under  
6 insurance contracts on behalf of an insurer, insured or self-  
7 insurer, for fee, commission or other compensation; however, an  
8 adjuster acting on behalf of an insured shall not investigate,  
9 negotiate, settle or adjust any claims involving personal injury  
10 to the insured; and

11 (b) who [~~shall advise~~] advises the  
12 insured of his rights to settlement and his rights to settle,  
13 arbitrate and litigate the dispute;

14 (2) "staff adjuster" is an adjuster individual  
15 who is a salaried employee of an insurer, representing and  
16 adjusting claims solely under policies of the employer insurer;  
17 and

18 (3) "independent adjuster" is every adjuster  
19 not a staff adjuster and includes representatives and employees  
20 of such an independent adjuster.

21 B. Except as provided hereafter, "adjuster" does not  
22 include:

23 (1) an attorney-at-law who adjusts insurance  
24 losses or claims from time to time incidental to practice of law  
25 and who does not advertise or represent himself to be an

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1 adjuster;

2 (2) a licensed agent or general agent of an  
3 authorized insurer, or an employee of such an agent or general  
4 agent, who adjusts claims or losses under specific authority  
5 from such insurer and solely under policies issued by such  
6 insurer;

7 (3) an agent or employee of a life or health  
8 insurer who adjusts claims or losses under such insurer's  
9 policies; or

10 (4) salaried or part-time claims agents or  
11 investigators employed by self-insured persons subject to  
12 regulation pursuant to Section [7, ~~Article II of the~~  
13 ~~constitution of New Mexico~~] 11 of the Public Regulation  
Commission Act. "

14 Section 21. Section 62-3-4 NMSA 1978 (being Laws 1967,  
15 Chapter 96, Section 4, as amended) is amended to read:

16 "62-3-4. LIMITATIONS AND EXCEPTIONS. --The term "public  
17 utility" or "utility", when used in the Public Utility Act, as  
18 amended, shall not include:

19 A. any person not otherwise a public utility who  
20 furnishes the service or commodity only to himself, his  
21 employees or tenants, when such service or commodity is not  
22 resold to or used by others, or who engages in the retail  
23 distribution of natural gas for vehicular fuel; or

24 B. a corporation engaged in the business of

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1 operating a railroad and that does not primarily engage in the  
2 business of selling the service or commodity but that only  
3 incidentally to its railroad business or occasionally furnishes  
4 the service or commodity to another under a separate limited or  
5 revocable agreement or sells to a utility or municipality for  
6 resale, or that sells the service or commodity to another  
7 railroad, the state or federal government or a governmental  
8 agency, or that sells or gives for a consideration under  
9 revocable agreements or permits quantities of water out of any  
10 surplus of water supply acquired and held by it primarily for  
11 railroad purposes; and such railroad corporation shall not be  
12 subject to any of the provisions of the Public Utility Act.

13 The business of any public utility other than of the  
14 character defined in Subsection G of Section 62-3-3 NMSA 1978 is  
15 not subject to provisions of the Public Utility Act, as amended.  
16 [~~Nothing contained in that act shall be construed as giving to  
17 the commission any powers or jurisdiction over public utilities  
18 covered by Section 7 of Article 11 of the constitution of New  
19 Mexico.~~]"

20 Section 22. Section 63-7-1 NMSA 1978 (being Laws 1912,  
21 Chapter 78, Section 1, as amended) is amended to read:

22 "63-7-1. PUBLIC REGULATION COMMISSION--TERMS DEFINED--  
23 OFFICE--ORGANIZATION. -- [SEC. 59.] As used in Chapter 63, Article  
24 7 NMSA 1978, the terms "commission" and "clerk" [~~where used in~~  
25 ~~this article shall]~~ mean [~~respectively, the state corporation~~

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1 ~~commission and the clerk thereof. The office of the commission~~  
2 ~~shall be located in the city of Santa Fe, New Mexico. The~~  
3 ~~commission shall annually elect one of its members chairman, who~~  
4 ~~shall preside at hearings, and, in the absence of the chairman,~~  
5 ~~it may appoint any other member to preside] the public~~  
6 regulation commission. "

7 Section 23. Section 63-7-20 NMSA 1978 (being Laws 1951,  
8 Chapter 194, Section 1, as amended) is amended to read:

9 "63-7-20. UTILITY AND CARRIER INSPECTION--FEE. --Each  
10 utility and carrier doing business in this state [~~which~~] that is  
11 subject to the control and jurisdiction of the ~~commission~~ by  
12 virtue of the provisions of Article 11 of the constitution of  
13 New Mexico and Section 11 of the Public Regulation Commission  
14 Act with respect to its rates and service shall pay annually to  
15 the ~~commission~~ a fee in performance of its duties as now  
16 provided by law. The fee for carriers shall not exceed one-  
17 fourth of one percent of its gross receipts from business  
18 transacted in New Mexico for the preceding calendar year. The  
19 fee for utilities shall not exceed one-half of one percent of  
20 its gross receipts from business transacted in New Mexico for  
21 the preceding calendar year. This sum shall be payable annually  
22 on or before January 20 or in equal quarterly installments on or  
23 before January 20, April 20, July 20 and October 20 in each  
24 year. No similar fee shall be imposed upon the utility or  
25 carrier. In the case of utilities or carriers engaged in

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1 interstate business, the fees shall be measured by the gross  
2 receipts of the utilities or carriers from intrastate business  
3 only for the preceding calendar year and not in any respect upon  
4 receipts derived wholly or in part from interstate business. As  
5 used in this section, "utility" includes telephone companies and  
6 transmission companies. "

7 Section 24. Section 63-7-23 NMSA 1978 (being Laws 1995,  
8 Chapter 175, Section 1) is amended to read:

9 "63-7-23. TELECOMMUNICATIONS--ADMINISTRATIVE FINES.--

10 A. For purposes of this section:

11 (1) "commission" means the [~~state corporation~~]  
public regulation commission; and

12 (2) "telecommunications provider" means any  
13 telegraph company, telephone company, transmission company,  
14 telecommunications common carrier, telecommunications company,  
15 cellular service company or pay telephone provider regulated in  
16 whole or in part by the commission under law, including but not  
17 limited to Article 11 of the constitution of New Mexico, Section  
18 11 of the Public Regulation Commission Act, the Telephone and  
19 Telegraph Company Certification Act, the New Mexico  
20 Telecommunications Act, the Cellular Telephone Services Act and  
21 Sections 63-9E-1 and 63-9E-3 NMSA 1978.

22 B. The commission may impose an administrative fine  
23 on a telecommunications provider for any act or omission that  
24 the provider knew or should have known was a violation

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1 of any applicable law or rule or order of the commission.

2 C. An administrative fine of not more than one  
3 thousand dollars (\$1,000) may be imposed for each violation or  
4 each of multiple violations arising out of the same facts, up to  
5 a maximum of twenty-five thousand dollars (\$25,000), or an  
6 administrative fine of not more than one thousand dollars  
7 (\$1,000) may be imposed for each day of a continuing violation  
8 or violations arising out of the same facts, up to a maximum of  
9 twenty-five thousand dollars (\$25,000). Notwithstanding any  
10 other provision of this subsection, the commission may impose an  
11 administrative fine not to exceed twenty-five thousand dollars  
12 (\$25,000) for a single violation:

13 (1) that results in substantial harm to the  
14 customers of the telecommunications provider or substantial harm  
15 to the public interest; or

16 (2) for failure to obtain a certificate of  
17 public convenience and necessity required by law or for  
18 operation outside the scope of any such certificate.

19 D. The commission shall initiate a proceeding to  
20 impose an administrative fine by giving written notice to the  
21 provider that the commission has facts as set forth in the  
22 notice that, if not rebutted, may lead to the imposition of an  
23 administrative fine under this section and that the  
24 telecommunications provider has an opportunity for a hearing.  
25 The commission may only impose an administrative fine by written

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1 order that, in the case of contested proceedings, shall be  
2 supported by a preponderance of the evidence.

3 E. The commission may initiate a proceeding to  
4 impose an administrative fine within two years from the date of  
5 the commission's discovery of the violation, but in no event  
6 shall a proceeding be initiated more than five years after the  
7 date of the violation. This limitation shall not run against  
8 any act or omission constituting a violation under this section  
9 for any period during which the telecommunications provider has  
10 fraudulently concealed the violation.

11 F. The commission shall consider mitigating and  
12 aggravating circumstances in determining the amount of  
13 administrative fine imposed.

14 G. For purposes of establishing a violation, the act  
15 or omission of any officer, agent or employee of a  
16 telecommunications provider, within the scope of such person's  
17 authority, duties or employment, shall be deemed the act or  
18 omission of the telecommunications provider.

19 H. Any telecommunications provider or other person  
20 aggrieved by an order assessing an administrative fine may  
21 ~~[remove]~~ appeal the order to the supreme court of New Mexico as  
22 authorized by the provisions of ~~[Article 11, Section 7 of the~~  
23 ~~constitution of New Mexico]~~ Section 11 of the Public Regulation  
24 Commission Act. ~~[Any telecommunications provider or other~~  
25 ~~person aggrieved by an order assessing an administrative fine~~

1 ~~that is not removable to the supreme court of New Mexico under~~  
2 ~~the provisions of Article 11, Section 7 of the constitution of~~  
3 ~~New Mexico may file a notice of appeal in the supreme court of~~  
4 ~~New Mexico asking for a review of the commission's order~~  
5 ~~therein.]~~ A notice of appeal shall be filed within thirty days  
6 after the entry of the commission's order. Notice of appeal  
7 shall name the commission as appellee and shall identify the  
8 order from which the appeal is taken.

9 I. The commission shall promulgate procedural rules  
10 and regulations for the implementation of this section."

11 Section 25. Section 63-8-1 NMSA 1978 (being Laws 1955,  
12 Chapter 43, Section 1, as amended) is amended to read:

13 "63-8-1. DUTIES OF THE COMMISSION. -- For the purpose of  
14 protecting the health and safety of employees of railroads, the  
15 [~~state corporation~~] public regulation commission, hereinafter  
16 called the "commission", shall prescribe standards of safety and  
17 safety devices requiring:

18 A. the installation and maintenance by railroads of  
19 electric marker warning lights or a single electric marker  
20 warning light on the rear of all trains, with sufficient candle  
21 power to be visible at a distance of three thousand feet under  
22 ordinary atmospheric conditions; and

23 B. the installation and maintenance by railroads of  
24 adequate electrical lighting within cabooses for clerical work."

25 Section 26. Section 63-9-2 NMSA 1978 (being Laws 1965,

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1 Chapter 292, Section 2, as amended) is amended to read:

2 "63-9-2. DEFINITIONS. --As used in the Telephone and  
3 Telegraph Company Certification Act:

4 A. "commission" means the [~~state corporation~~] public  
5 regulation commission;

6 B. "telephone company" means a company, corporation,  
7 partnership, individual or others, not engaged solely in  
8 interstate business, furnishing mobile telephone service or  
9 radio paging;

10 C. "public utility telephone service" means making  
11 and offering mobile telephone or radio paging service to or for  
12 the public generally and being ready, willing and able to  
13 furnish such service with adequate equipment; and

14 D. "certificated area" means the geographical area  
15 [~~which~~] that a telephone company is authorized to serve by a  
16 certificate of public convenience and necessity and [~~which~~] that  
17 is defined on the map as part of the certificate. "

18 Section 27. Section 63-9-6 NMSA 1978 (being Laws 1965,  
19 Chapter 292, Section 6) is amended to read:

20 "63-9-6. ISSUANCE OF CERTIFICATE--TERRITORY ON MAP. --

21 A. After conclusion of a hearing on an application  
22 for a certificate of convenience and necessity, the commission  
23 shall make and file an order containing its findings of fact and  
24 decision. The order shall become operative twenty days after  
25 issuance, except as the commission may otherwise provide.

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1           B. ~~[The commission shall grant all certificates as~~  
2 ~~required by Section 4 of this act.]~~

3           C. ~~As to all applications other than those based~~  
4 ~~upon Section 4 of this act]~~ The commission has the power, after  
5 having determined public convenience and necessity, to grant a  
6 certificate as applied for or to refuse to grant it or to grant  
7 it for the construction or operation of only a portion of the  
8 contemplated plant or system or extension ~~[thereof]~~ or for the  
9 partial exercise only of the rights and privilege sought and may  
10 attach to the exercise of the rights and privilege granted by a  
11 certificate such terms and conditions as in its judgment the  
12 public convenience and necessity may require.

13           ~~[D.]~~ C. The geographical field or area that a  
14 telephone company is authorized and required to serve by a  
15 certificate shall be defined on a map which ~~[will]~~ shall be part  
16 of the certificate. The commission shall prescribe the form of  
17 the map to be used."

18           Section 28. Section 63-9-9 NMSA 1978 (being Laws 1965,  
19 Chapter 292, Section 9) is amended to read:

20           "63-9-9. NONDUPLICATION IN CERTIFICATED AREAS. --

21           A. It shall ~~[hereafter]~~ be unlawful to construct,  
22 own, operate, manage, lease or control any plant or equipment  
23 for the furnishing of telephone or telegraph service  
24 contemplated by Article ~~[XII]~~ 11, Section ~~[7]~~ 2 of the  
25 constitution of New Mexico, the Public Regulation Commission Act

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1 and this ~~[act]~~ article, in any certificated area granted to  
2 another telephone company unless public convenience and  
3 necessity ~~[shall require such]~~ requires the second plant or  
4 equipment.

5 B. Any person, corporation, ~~municipal corporation~~,  
6 partnership or association proposing to construct or operate  
7 ~~[such]~~ the second plant or equipment shall first file an  
8 application with the commission, to which application the  
9 authority proposing to authorize the construction of ~~[such]~~ the  
10 second plant or equipment and the owner, ~~manager~~ or operator of  
11 the plant or equipment then in operation shall be made parties.  
12 The applications shall set up the reasons why public convenience  
13 and necessity require ~~[such]~~ the second plant or equipment. In  
14 determining whether the public convenience and necessity require  
15 ~~[such]~~ the second plant or equipment, the commission shall  
16 consider and determine upon substantial evidence whether the  
17 following conditions existed at the time of the filing of ~~[said]~~  
18 the application:

18 (1) the existing telephone or telegraph service  
19 is inadequate to meet the reasonable needs and convenience of  
20 the public;

21 (2) the proposed second plant or equipment  
22 would eliminate such inadequacy;

23 (3) it is economically feasible to operate the  
24 proposed second plant or equipment successfully and continuously

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1 for the furnishing of telephone or telegraph service;

2 (4) the applicant for [~~said~~] the second plant  
3 or equipment has sufficient financial resources to provide the  
4 proposed telephone or telegraph service properly and  
5 continuously;

6 (5) the applicant for [~~said~~] the second plant  
7 or equipment has competent and experienced management and  
8 personnel to provide the proposed telephone or telegraph  
9 service;

10 (6) the applicant for [~~said~~] the second plant  
11 or equipment is willing and able to conform to the constitution  
12 and law of [~~the state of~~] New Mexico and the rules and  
13 regulations of the commission; and

14 (7) the applicant for [~~said~~] the second plant  
15 or equipment is in every respect willing and able to provide the  
16 proposed telephone or telegraph service properly.

17 C. If the commission [~~shall find~~] finds upon  
18 substantial evidence that each of the [~~foregoing~~] conditions  
19 enumerated in Paragraphs (1) through (7) of Subsection B of this  
20 section existed at the time of filing [~~said~~] the application and  
21 after determining that the public convenience and necessity  
22 require that additional plant or equipment is necessary, the  
23 commission shall issue an order in the alternative directing the  
24 owner, manager or operator of the plant or equipment then in  
25 operation to make such changes and additions in plant as may be

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1 reasonably necessary to meet the public convenience and  
2 necessity within not less than ninety days or such other  
3 additional time as the commission finds from the testimony would  
4 be reasonably required to expeditiously make the changes and  
5 additions specified and required by the commission. [~~Such~~] The  
6 order shall specifically direct what changes or additions in  
7 plant shall be made or what services shall be provided. If such  
8 changes or additions are not made within the time ordered by the  
9 commission or such additional time as may be ordered, then a  
10 certificate of public convenience and necessity for such second  
11 plant or equipment may issue. "

12 Section 29. Section 63-9-13 NMSA 1978 (being Laws 1965,  
13 Chapter 292, Section 13) is amended to read:

14 "63-9-13. ACTION TO SET ASIDE [~~NONREMOVABLE~~] CERTAIN  
15 ORDERS OF THE COMMISSION. --

16 A. Any telephone company and any other person in  
17 interest being aggrieved by an order or determination of the  
18 commission in connection with the issuance or nonissuance of a  
19 certificate of public convenience and necessity not [~~removable~~]  
20 appealable to the supreme court of New Mexico under the  
21 provisions of [~~Article XI, Section 7 of the constitution of New~~  
22 ~~Mexico~~] Section 11 of the Public Regulation Commission Act may  
23 commence an action in the district court for Santa Fe county  
24 against the commission as defendant to set aside the order or  
25 determination.

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1           B. If after review of the record made before the  
2 commission the district court finds an order or determination  
3 arbitrary, capricious, unsupported by substantial evidence or  
4 unlawful, it can set [~~it~~] the order or determination aside and  
5 may grant relief by injunction, mandamus or other extraordinary  
6 remedy.

7           C. In any action [~~hereunder~~] pursuant to this  
8 section, the complaint shall be served with the summons. The  
9 answer of the commission to the complaint shall be served and  
10 filed within [~~twenty~~] thirty days after service of the  
11 complaint, whereupon [~~said~~] the action shall be at issue without  
12 further pleading and stand ready for trial upon ten days'  
13 notice.

14           D. Any person not a party to the action but having  
15 an interest in the subject [~~thereof~~] may be made a party upon  
16 order of the court.

17           E. All such actions shall have precedence over any  
18 civil cause of a different nature, and the district court shall  
19 always be deemed open for the trial [~~thereof~~] of such actions."

20           Section 30. Section 63-9-14 NMSA 1978 (being Laws 1965,  
21 Chapter 292, Section 14) is amended to read:

22           "63-9-14. TIME LIMIT FOR SEEKING RECOURSE IN THE COURTS. --  
23 Every action to vacate or set aside any determination or order  
24 of the commission or to enjoin the enforcement [~~thereof~~] or to  
25 prevent [~~such~~] the order or determination from becoming

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1 effective shall be commenced and every appeal [~~removal~~] or right  
2 of recourse to the courts shall be taken or exercised within  
3 [~~ninety~~] thirty days after the entry or rendition of the order  
4 or determination. The right to commence any such action or to  
5 take or exercise any appeal or right of recourse to the courts  
6 shall terminate absolutely at the end of the [~~ninety~~] thirty  
7 days. "

8 Section 31. Section 63-9-16 NMSA 1978 (being Laws 1965,  
9 Chapter 292, Section 16) is amended to read:

10 "63-9-16. APPEAL TO SUPREME COURT. -- Any party to an action  
11 to set aside a [~~nonremovable~~] commission order or determination  
12 not subject to appeal under the provisions of Section 11 of the  
13 Public Regulation Commission Act may appeal within [~~sixty days~~  
14 ~~after service of a copy~~] thirty days after entry of the order or  
15 judgment of the district court [~~may appeal~~] to the supreme court  
16 and the cause shall be placed on the calendar of the then  
17 pending term and shall be assigned and brought to a hearing in  
18 the same manner as other causes on the calendar. "

19 Section 32. Section 63-9-19 NMSA 1978 (being Laws 1965,  
20 Chapter 292, Section 19) is amended to read:

21 "63-9-19. INJUNCTIONS--CONTEMPT. -- In any matter not  
22 [~~removable~~] appealable to the supreme court of New Mexico under  
23 the provisions of [~~Article XI, Section 7 of the constitution of~~  
24 ~~New Mexico~~] Section 11 of the Public Regulation Commission Act,  
25 the commission may apply to courts having jurisdiction for

1 injunctions to prevent violations of any provision of [~~this~~] the  
2 Telephone and Telegraph Company Certification Act or of any rule  
3 or order of the commission in connection with the issuance or  
4 nonissuance of certificates of public [~~necessity and~~]  
5 convenience and necessity pursuant to [~~this~~] that act. [~~and~~]  
6 Such courts shall have power to grant such injunctions and to  
7 enforce [~~such injunctions~~] them by contempt procedure."

8 Section 33. Section 63-9A-3 NMSA 1978 (being Laws 1985,  
9 Chapter 242, Section 3, as amended) is amended to read:

10 "63-9A-3. DEFINITIONS. -- As used in the New Mexico  
11 Telecommunications Act:

12 A. "affordable rates" means local exchange service  
13 rates that promote universal service within a local exchange  
14 service area, giving consideration to the economic conditions  
15 and costs to provide service in such area;

16 B. "cable television service" means the one-way  
17 transmission to subscribers of video programming or other  
18 programming service and subscriber interaction, if any, [~~which~~]  
19 that is required for the selection of such video programming or  
20 other programming service;

21 C. "commission" means the [~~state corporation~~] public  
22 regulation commission;

23 D. "competitive telecommunications service" means a  
24 service [~~which~~] that has been determined to be subject to  
25 effective competition pursuant to Section 63-9A-8 NMSA 1978;

1           E. "effective competition" means that the customers  
2 of the service have reasonably available and comparable  
3 alternatives to the service;

4           F. "fund" means the New Mexico universal service  
5 fund;

6           G. "local exchange area" means a geographic area  
7 encompassing one or more local communities, as described in  
8 maps, tariffs or rate schedules filed with the commission, where  
9 local exchange rates apply;

10          H. "local exchange service" means the transmission  
11 of two-way interactive switched voice communications furnished  
12 by a telecommunications company within a local exchange area;

13          I. "message telecommunications service" means  
14 telecommunications service between local exchange areas within  
15 the state for which charges are made on a per-unit basis, not  
16 including wide area telecommunications service, or its  
17 equivalent, or individually negotiated contracts for  
18 telecommunications services;

19          J. "noncompetitive telecommunications service" means  
20 a service [which] that has not been determined to be subject to  
21 effective competition pursuant to Section 63-9A-8 NMSA 1978;

22          K. "private telecommunications service" means a  
23 system, including the construction, maintenance or operation  
24 thereof, for the provision of telecommunications service, or any  
25 portion of such service, by a person or entity for the sole and

1 exclusive use of that person or entity and not for resale,  
2 directly or indirectly. For purposes of this definition, the  
3 person or entity [~~which~~] that may use such service includes any  
4 affiliates of the person or entity, provided that at least  
5 eighty percent of the assets or voting stock of the affiliates  
6 is owned by the person or entity. If any other person or entity  
7 uses the telecommunications service, whether for hire or not,  
8 the private telecommunications service is a public  
9 telecommunications service;

10 L. "public telecommunications service" means the  
11 transmission of signs, signals, writings, images, sounds,  
12 messages, data or other information of any nature by wire,  
13 radio, lightwaves or other electromagnetic means originating and  
14 terminating in this state regardless of actual call routing.  
15 "Public telecommunications service" does not include the  
16 provision of terminal equipment used to originate or terminate  
17 such service; private telecommunications service; broadcast  
18 transmissions by radio, television and satellite broadcast  
19 stations regulated by the federal communications commission;  
20 radio common carrier services, including but not limited to  
21 mobile telephone service and radio paging; or one-way cable  
22 television service; and

23 M "telecommunications company" means an individual,  
24 corporation, partnership, joint venture, company, firm,  
25 association, proprietorship or other entity [~~which~~] that

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1 provides public telecommunications service. "

2 Section 34. Section 63-9A-14 NMSA 1978 (being Laws 1985,  
3 Chapter 242, Section 14) is amended to read:

4 "63-9A-14. ACTION TO SET ASIDE ~~[NONREMOVABLE]~~ ORDERS OF  
5 THE COMMISSION. --Any provider of telecommunications services and  
6 any other person in interest being aggrieved by an order or  
7 determination of the commission under the New Mexico  
8 Telecommunications Act ~~[not removable to the supreme court of~~  
9 ~~New Mexico under the provisions of Article 11, Section 7 of the~~  
10 ~~constitution of New Mexico]~~ may file a notice of appeal in the  
11 supreme court asking for a review of the commission's final  
12 orders. ~~[therein. A]~~ The notice of appeal ~~[must]~~ shall be  
13 filed within thirty days after the entry of the commission's  
14 final order. Every notice of appeal shall name the ~~[state~~  
15 ~~corporation]~~ public regulation commission as appellee and shall  
16 identify the order from which the appeal is taken. Any person  
17 whose rights may be directly affected by the appeal may appear  
18 and become a party, or the supreme court may upon proper notice  
19 order any person to be joined as a party. "

20 Section 35. Section 63-9A-20 NMSA 1978 (being Laws 1985,  
21 Chapter 242, Section 20) is amended to read:

22 "63-9A-20. INJUNCTIONS--CONTEMPT. --In any matter not  
23 ~~[removable]~~ appealable to the supreme court of New Mexico under  
24 the provisions of ~~[Article 11, Section 7 of the constitution of~~  
25 ~~New Mexico]~~ Section 11 of the Public Regulation Commission Act,

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1 the commission may apply to courts having jurisdiction for  
2 injunctions to prevent violations of any provision of the New  
3 Mexico Telecommunications Act or of any rule or order of the  
4 commission issued pursuant to that act. [~~and~~] Such courts shall  
5 have power to grant such injunctions and to enforce [~~such~~  
6 ~~injunctions~~] them by contempt procedure. "

7 Section 36. Section 63-9B-3 NMSA 1978 (being Laws 1987,  
8 Chapter 296, Section 3) is amended to read:

9 "63-9B-3. DEFINITIONS. --As used in the Cellular Telephone  
10 Services Act:

11 A. "commission" means the [~~state corporation~~]  
12 public regulation commission;

13 B. "cellular service company" means a cellular  
14 telephone company that uses cellular telephone equipment and is  
15 a radio common carrier or telephone or telecommunications  
16 company licensed by the federal communications commission and  
17 operates within the [~~800~~] eight hundred megahertz band of  
18 frequency. A cellular service company operates a cellular  
19 system [~~which~~] that is a high capacity land mobile system in  
20 which assigned spectrum is divided into discrete channels  
21 [~~which~~] that are assigned in groups to geographic cells covering  
22 a cellular geographic area, as defined by the federal  
23 communications commission. "Cellular service company" does not  
24 include noncellular radio common carrier service, including but  
25 not limited to noncellular mobile telephone service, radio-

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1 paging service or one-way cable television service; and

2 C. "certificated area" means the geographical area  
3 [which] that a cellular service company is authorized to serve  
4 by a certificate of public convenience and necessity and [which]  
5 that is defined on the map as part of the certificate issued  
6 under such law authorizing the issuance of a certificate of  
7 public convenience and necessity for such purpose. "

8 Section 37. Section 63-9B-8 NMSA 1978 (being Laws 1987,  
9 Chapter 296, Section 8) is amended to read:

10 "63-9B-8. ACTION TO SET ASIDE [~~NONREMOVABLE~~] CERTAIN  
11 ORDERS OF THE COMMISSION. -- Any cellular service company and any  
12 other person in interest being aggrieved by an order or  
13 determination of the commission under the Cellular Telephone  
14 Services Act [~~not removable to the supreme court of New Mexico~~  
15 ~~under the provisions of Article 11, Section 7 of the con-~~  
16 ~~stitution of New Mexico~~] may file a notice of appeal in the  
17 supreme court asking for a review of the commission's final  
18 orders. [A] The notice of appeal shall be filed within thirty  
19 days after the entry of the commission's final order. Every  
20 notice of appeal shall name the commission as appellee and shall  
21 identify the order from which the appeal is taken. Any person  
22 whose rights may be directly affected by the appeal may appear  
23 and become a party, or the supreme court may upon proper notice  
24 order any person to be joined as a party. "

25 Section 38. Section 63-9B-14 NMSA 1978 (being Laws 1987,

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1 Chapter 296, Section 14) is amended to read:

2 "63-9B-14. INJUNCTIONS--CONTEMPT.--In any matter not  
3 [~~removable~~] appealable to the supreme court of New Mexico under  
4 the provisions of [~~Article 11, Section 7 of the constitution of~~  
5 ~~New Mexico~~] Section 11 of the Public Regulation Commission Act,  
6 the commission may apply to courts having jurisdiction for  
7 injunctions to prevent violations of any provision of the  
8 Cellular Telephone Services Act or of any rule or order of the  
9 commission issued pursuant to that act. [~~and~~] The courts shall  
10 have power to grant such injunctions and to enforce  
11 [~~injunctions~~] them by contempt procedure."

12 Section 39. Section 63-9C-3 NMSA 1978 (being Laws 1987,  
13 Chapter 197, Section 3) is amended to read:

14 "63-9C-3. DEFINITIONS.--As used in the Low-Income  
15 Telephone Service Assistance Act:

16 A. "commission" means the [~~state corporation~~] public  
17 regulation commission;

18 B. "department" means the human services department;  
19 and

20 C. "local exchange company" means a person, company,  
21 corporation, partnership, cooperative, joint venture or other  
22 business organization or association not engaged solely in  
23 interstate business [~~which~~] that provides services or facilities  
24 for the transmission of two-way interactive switched voice  
25 communications over a telephone line within a local exchange

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1 area for single-line customers."

2 Section 40. Section 63-9D-3 NMSA 1978 (being Laws 1989,  
3 Chapter 25, Section 3, as amended) is amended to read:

4 "63-9D-3. DEFINITIONS. --As used in the Enhanced 911 Act:

5 A. "911 emergency surcharge" means the monthly  
6 uniform charge assessed on each local exchange service customer  
7 in the state for each local exchange access line to pay for the  
8 purchase, lease, installation and maintenance of equipment  
9 necessary for the establishment of a 911 system, including the  
10 repayment of bonds issued pursuant to the Enhanced 911 Bond Act;

11 B. "911 service area" means the area within a local  
12 governing body's jurisdiction that has been designated by the  
13 local governing body or the division to receive enhanced 911  
14 service;

15 C. "911 system" means the basic 911 system or the  
16 enhanced 911 system;

17 D. "basic 911 system" means a telephone service that  
18 automatically connects a person dialing the single three-digit  
19 number 911 to an established public safety answering point  
20 through normal telephone service facilities;

21 E. "commission" means the ~~[state corporation]~~ public  
22 regulation commission;

23 F. "department" means the taxation and revenue  
24 department;

25 G. "division" means the local government division of

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1 the department of finance and administration;

2 H. "enhanced 911 system" means a telephone system  
3 consisting of network, database and on-premises equipment that  
4 utilizes the single three-digit number 911 for reporting police,  
5 fire, medical or other emergency situations, thereby enabling  
6 the users of a public telephone system to reach a public safety  
7 answering point to report emergencies by dialing 911, and  
8 includes the capability to:

9 (1) selectively route incoming 911 calls to the  
10 appropriate public safety answering point operating in a 911  
11 service area; and

12 (2) automatically display the name, address and  
13 telephone number of an incoming 911 call on a video monitor at  
14 the appropriate public safety answering point;

15 I. "enhanced 911 equipment" means the customer  
16 premises equipment directly related to the operation of an  
17 enhanced 911 system, including, but not limited to, automatic  
18 number identification or automatic location identification  
19 controllers and display units, printers, cathode ray tubes and  
20 software associated with call detail recording;

21 J. "equipment supplier" means any person or entity  
22 who provides or offers to provide telecommunications equipment  
23 necessary for the establishment of enhanced 911 services;

24 K. "local 911 surcharge" means the additional charge  
25 imposed by a local governing body of a community served by a

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1 local exchange telephone company that has not otherwise provided  
2 for enhanced 911 capability in its network in order to provide  
3 funding for the local governing body to pay for development of  
4 the network and database;

5 L. "local exchange access line" means any telephone  
6 line that connects a local exchange service customer to the  
7 local switching office and has the capability of reaching local  
8 public safety service agencies, but does not include any line  
9 used by a carrier for the provision of interexchange services;

10 M "local exchange area" means a geographic area  
11 encompassing one or more local communities, as described in  
12 maps, tariffs or rate schedules filed with the commission, where  
13 local exchange rates apply;

14 N. "local exchange service" means the transmission  
15 of two-way interactive switched voice communications furnished  
16 by a local exchange telephone company within a local exchange  
17 area, including access to enhanced 911 systems;

18 O. "local exchange telephone company" means a  
19 telecommunications company, as defined by Subsection M of  
20 Section 63-9A-3 NMSA 1978, certified to provide local exchange  
21 service;

22 P. "local governing body" means the board of county  
23 commissioners of a county or the governing body of a  
24 municipality as defined in the Municipal Code;

25 Q. "network" means any system designed to provide

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1 one or more access paths for communications between users at  
2 different geographic locations; provided that a system may be  
3 designed for voice, data or both and may feature limited or open  
4 access and may employ appropriate analog, digital switching or  
5 transmission technologies;

6 R. "network and database surcharge" means the  
7 monthly uniform charge assessed on each local exchange service  
8 customer in the state for each local exchange access line to pay  
9 for the costs of developing and maintaining a network and  
10 database for a 911 emergency system; and

11 S. "public safety answering point" means a twenty-  
12 four-hour local jurisdiction communications facility that  
13 receives 911 service calls and directly dispatches emergency  
14 response services or that relays calls to the appropriate public  
or private safety agency. "

15 Section 41. Section 64-1-6 NMSA 1978 (being Laws 1929,  
16 Chapter 71, Section 6) is amended to read:

17 "64-1-6. COMMON CARRIERS. -- [~~That~~] Every person, firm,  
18 corporation, association or company at any time engaged, either  
19 regularly or for the time being only, in the transportation of  
20 persons or property for hire between points within this state or  
21 from a point within this state and return thereto is hereby  
22 declared to be a common carrier within the meaning and purview  
23 of [~~Section 7 of~~] Article 11, Section 2 of the constitution of  
[~~the State of~~] New Mexico. "

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1           Section 42. Section 65-2-82 NMSA 1978 (being Laws 1981,  
2 Chapter 358, Section 3, as amended by Laws 1989, Chapter 250,  
3 Section 1 and also by Laws 1989, Chapter 375, Section 1) is  
4 amended to read:

5           "65-2-82. DEFINITIONS. --As used in the Motor Carrier Act:

6           A. "antitrust laws" means the laws of this state  
7 relating to combinations in restraint of trade;

8           B. "broker" means any person not included in the  
9 term "motor carrier" and not a bona fide employee or agent of  
10 any motor carrier who, as principal or agent, sells or offers  
11 for sale any transportation subject to the Motor Carrier Act or  
12 negotiates for or holds himself [~~or itself~~] out by solicitation,  
13 advertisement or otherwise as one who sells, provides,  
14 furnishes, contracts or arranges for such transportation;

15           C. "certificate" means a certificate of public  
16 convenience and necessity issued under authority of the laws of  
17 the state to common motor carriers;

18           D. "clerk" means the chief clerk of the [~~state~~  
19 ~~corporation~~] public regulation commission;

20           E. "commission" means the [~~state corporation~~] public  
21 regulation commission;

22           F. "common motor carrier" means any person who  
23 undertakes, whether directly or indirectly or by lease of  
24 equipment or operating rights or any other arrangement, to  
25 transport persons or property or any class of property for the

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1 general public by motor vehicle for compensation, whether over  
2 regular or irregular routes and under scheduled or nonscheduled  
3 service, but does not include farm carriers;

4 G. "contract motor carrier" means any person not a  
5 common motor carrier who, under individual contracts or  
6 agreements and whether directly or indirectly or by lease of  
7 equipment or operating rights or any other arrangements,  
8 transports persons or property by motor vehicle for  
9 compensation, but does not include farm carriers;

10 H. "farm carrier" means any motor vehicle registered  
11 in this state being used in the transportation for hire of a  
12 cargo consisting of only one or several of the following: farm  
13 produce, including but not limited to grains, cotton,  
14 cottonseed, vegetables, hay and other farm products, livestock  
15 feed, livestock, stock salt, manure, wire, posts, dairy products  
16 and farm or ranch machinery except tractors weighing more than  
17 forty-five thousand pounds;

18 I. "highway" means the public roads, highways,  
19 streets and ways in this state;

20 J. "household goods" means:

21 (1) personal effects and property used or to be  
22 used in a dwelling when a part of the equipment or supply of the  
23 dwelling and other similar property as the commission may  
24 provide by regulation; except that this paragraph shall not be  
25 construed to include property moving from a factory or store,

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1       except property as the householder has purchased with intent to  
2       use in his dwelling and [~~which~~] that is transported at the  
3       request of, and the transportation charges paid to the carrier  
4       by, the householder;

5               (2) furniture, fixtures, equipment and the  
6       property of stores, offices, ~~museums~~, institutions, hospitals or  
7       other establishments when a part of the stock, equipment or  
8       supply of stores, offices, ~~museums~~, institutions, hospitals or  
9       other establishments and other similar property as the  
10       commission may provide by regulation; except that this paragraph  
11       shall not be construed to include the stock-in-trade of any  
12       establishment, whether consignor or consignee, other than used  
13       furniture and used fixtures, except when transported as  
14       incidental to the moving of the establishment, or a portion  
15       thereof, from one location to another; and

16               (3) articles, including objects of art,  
17       displays and exhibits, [~~which~~] that, because of their unusual  
18       nature or value, require the specialized handling and equipment  
19       usually employed in moving household goods and other similar  
20       articles as the commission may provide by regulation; except  
21       that this paragraph shall not be construed to include any  
22       article, whether crated or uncrated, [~~which~~] that does not,  
23       because of its unusual nature or value, require the specialized  
24       handling and equipment usually employed in moving household  
25       goods;

1           K. "interested parties" shall in all cases include  
2 all carriers operating over the routes or any part thereof or in  
3 the territory involved in any application for a certificate or  
4 permit or any application to file or change any schedule of  
5 rates, charges, fares or any rule, regulation or practice, and  
6 other parties as the commission may deem interested in the  
7 particular matter;

8           L. "irregular route" means that the route to be used  
9 by a motor carrier is not restricted to any specific highway  
10 within the area the motor carrier is authorized to serve;

11           M. "lease" means any arrangement whereby a motor  
12 carrier augments his equipment by use of equipment owned by  
13 others;

14           N. "license" means a license issued under the Motor  
15 Carrier Act to a broker;

16           O. "motor carrier" includes common motor carriers,  
17 contract motor carriers, any person performing for-hire  
18 transportation service without authority from the commission and  
19 farm carriers;

20           P. "motor vehicle" means any vehicle, machine,  
21 tractor, trailer or semi-trailer propelled or drawn by  
22 mechanical power and used upon the highways in the  
23 transportation of property or persons, but does not include any  
24 vehicle, locomotive or car operated exclusively on rail or  
25 rails;

1           Q. "permit" means a permit issued under authority of  
2 the laws of this state to contract motor carriers;

3           R. "person" means any individual, firm, partnership,  
4 corporation, company, association or organization and includes  
5 any trustee, receiver, assignee or personal representative  
6 thereof;

7           S. "regular route" means a fixed, specific and  
8 determined course to be traveled by a motor carrier's vehicles  
9 rendering service to, from or between various points, localities  
10 or municipalities in this state;

11           T. the "services" and "transportation" to which the  
12 Motor Carrier Act applies include all vehicles operated by, for  
13 or in the interest of any motor carrier irrespective of  
14 ownership or of contract, express or implied, together with all  
15 facilities and property controlled by any motor carrier and used  
16 in the transportation of persons or property or in the  
17 performance of any service in connection therewith;

18           U. "shipper" means a person who consigns or receives  
19 goods for transportation;

20           V. "single-line rate" means a rate, charge or  
21 allowance proposed by a single common motor carrier of property  
22 that is applicable only over its line and for which the  
23 transportation can be provided by that common motor carrier;

24           W. "state" means the state of New Mexico;

25           X. "towing company" means any common motor carrier

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1 engaged in transporting for hire disabled or abandoned motor  
2 vehicles by means of a tow truck or flatbed vehicle carrier; and

3 Y. "weight-bumping" means the knowing and willful  
4 making or securing of a fraudulent weight on a shipment of  
5 household goods which is subject to the jurisdiction of the  
6 commission under the Motor Carrier Act. "

7 Section 43. Section 65-2-120 NMSA 1978 (being Laws 1981,  
8 Chapter 358, Section 41, as amended) is amended to read:

9 "65-2-120. ACTION TO VACATE COMMISSION ORDERS--TIME  
10 LIMITS--VALIDITY OF ORDERS--APPEAL TO SUPREME COURT--COURT  
11 PROCEDURE. --

12 A. Any motor carrier and any other person in  
13 interest being dissatisfied with any order or determination of  
14 the commission not ~~[removable]~~ appealable to the supreme court  
15 of this state under the provisions of ~~[Article 11, Section 7 of~~  
16 ~~the constitution of New Mexico]~~ Section 11 of the Public  
17 Regulation Commission Act, may commence an action in the  
18 district court for Santa Fe county against the commission as  
19 defendant to vacate and set aside the order or determination on  
20 the ground that it is unlawful or unreasonable. In any such  
21 proceeding, the court may grant relief by injunction, mandamus  
22 or other extraordinary remedy. In any action, the complaint  
23 shall be served with the summons. The person who files the  
24 complaint shall, by certified mail, send a copy of the complaint  
25 to all persons who participated as parties in the action before

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1 the commission.

2 B. The answer of the commission to the complaint  
3 shall be served and filed within thirty days after service of  
4 the complaint, whereupon the action shall be at issue without  
5 further pleading and stand ready for trial upon ten days'  
6 notice.

7 C. Any person not a party to the action but having  
8 an interest in the subject may be made a party.

9 D. All such actions shall have precedence over any  
10 civil cause of a different nature, and the district court shall  
11 always be deemed open for the trial of the action and the action  
12 shall be tried and determined as other civil actions without a  
jury.

13 E. Every action to vacate or amend any determination  
14 or order of the commission or to enjoin the enforcement of the  
15 determination or order or to prevent the order or determination  
16 from becoming effective shall be commenced and every appeal to  
17 the courts or right of recourse to the courts shall be taken or  
18 exercised within [~~ninety~~] thirty days after the entry or  
19 rendition of the order or determination. The right to commence  
20 any action or to take or exercise any appeal or right of  
21 recourse to the courts shall terminate absolutely at the end of  
[~~ninety~~] thirty days.

22 F. A substantial compliance by the commission with  
23 the requirements of the Motor Carrier Act shall be sufficient to

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1 give effect to all rules, orders, acts and regulations of the  
2 commission, and they shall not be declared inoperative, illegal  
3 or void for any omission of a technical nature in respect  
4 thereto.

5 G. Any party to the action, within [~~sixty~~] thirty  
6 days after service of a copy of the order or judgment of the  
7 district court, may appeal to the supreme court, and the cause  
8 shall be placed on the calendar of the then pending term and  
9 shall be assigned and brought to a hearing in the same manner as  
10 other causes on the calendar.

11 H. In such actions and proceedings in court, all  
12 processes shall be served and the practice and rules of evidence  
13 shall be the same as in civil actions, except as otherwise  
14 provided. "

15 Section 44. Section 65-4-4 NMSA 1978 (being Laws 1933,  
16 Chapter 120, Section 4) is amended to read:

17 "65-4-4. ADMINISTRATION OF ACT. -- The [~~State Corporation~~]  
18 public regulation commission [~~of the State of New Mexico~~] is  
19 [~~hereby~~] vested with the authority to administer [~~this act with~~]  
20 Sections 65-4-1 through 65-4-18 NMSA 1978. The commission shall  
21 have full power to regulate and control the issuance and  
22 revocation of licenses to be issued under the provisions of  
23 [~~this act~~] those sections and to perform all other acts [~~and~~  
24 ~~duties provided in this act and~~] necessary for [~~its~~] their  
25 enforcement. "

Underscored material = new  
[bracketed material] = delete

1           Section 45. Section 65-6-2 NMSA 1978 (being Laws 1974,  
2 Chapter 82, Section 2, as amended) is amended to read:

3           "65-6-2. DEFINITIONS. --As used in the Ambulance Standards  
4 Act:

5           A. "ambulance" means any vehicle, including motor  
6 vehicles or watercraft, designed and used or intended to be used  
7 for the transportation of sick or injured persons;

8           B. "driver" means a person who, on a regular or  
9 irregular basis, either paid or voluntary, serves as the  
10 operator of an ambulance;

11           C. "attendant" means a person who, on a regular or  
12 irregular basis, either paid or voluntary, serves as an  
13 assistant to the ambulance driver in the operation of the  
14 ambulance; and

15           D. "commission" means the [~~state corporation~~] public  
regulation commission. "

16           Section 46. Section 70-3-12 NMSA 1978 (being Laws 1969,  
17 Chapter 71, Section 2, as amended) is amended to read:

18           "70-3-12. DEFINITIONS. --As used in the Pipeline Safety  
19 Act:

20           A. "person" means any individual, firm, joint  
21 venture, partnership, corporation, association, state,  
22 municipality, political subdivision, cooperative association,  
23 joint stock association or any combination thereof and includes  
24 any receiver, trustee, assignee or personal representative

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1       thereof;

2                   B. "commission" means the [~~state corporation~~] public  
3 regulation commission;

4                   C. "gas" means natural gas, flammable gas or gas  
5 that is toxic or corrosive;

6                   D. "oil" means crude oil and liquid hydrocarbons and  
7 manufactured products derived from either;

8                   E. "transportation of gas" means the gathering,  
9 transmission or distribution of gas by pipeline or its storage,  
10 except that it shall not include the gathering of gas in those  
11 rural locations which lie outside the limits of any municipality  
12 or unincorporated city, town or village or any residential or  
13 commercial area such as a subdivision, a business or shopping  
14 center, a community development or any similar populated area  
15 which the commission may define by order as a nonrural area;

16                   F. "transportation of oil" means the transmission of  
17 oil by pipeline, except pipelines operated exclusively for the  
18 gathering of oil in any field or area or pipelines constituting  
19 a part of any tank farm, plant facilities of any processing  
20 plant, gasoline plant, refinery, carbon-black plant, recycling  
21 system or similar operations;

22                   G. "gas pipeline facilities" means new and existing  
23 pipeline rights of way and any equipment, facility or structure  
24 used in the transportation of gas or the treatment of gas during  
25 the course of transportation;

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[bracketed material] = delete

1           H. "oil pipeline facilities" means new and existing  
2 pipeline rights of way and any equipment facility or structure  
3 used in the transportation of oil; and

4           I. "intrastate pipeline facilities" means oil  
5 pipeline facilities or gas pipeline facilities within the state  
6 that are not gas pipeline facilities subject to the jurisdiction  
7 of the federal energy regulatory commission pursuant to the  
8 federal Natural Gas Act or oil pipeline facilities used in the  
9 transportation of oil in interstate or foreign commerce, except  
10 that it shall include pipeline facilities within the state that  
11 transport gas from an interstate gas pipeline to a direct sales  
12 customer within the state purchasing gas for its own  
consumption. "

13           Section 47. Section 76-13-2 NMSA 1978 (being Laws 1927,  
14 Chapter 101, Section 2, as amended) is amended to read:

15           "76-13-2. REGULATION BY PUBLIC REGULATION COMMISSION. -- The  
16 [~~state corporation commission shall have~~] public regulation  
17 commission has the power and [~~be~~] is charged with the duty of  
18 fixing, determining, supervising, regulating and controlling all  
19 considerations, charges or fees of all public utilities defined  
20 in Section [~~1, hereof~~] 76-13-1 NMSA 1978 in the same manner and  
21 to the same extent that [~~they are~~] it is authorized to fix,  
22 determine, supervise, regulate and control charges and rates of  
23 transportation and transmission companies and common carriers in  
Article [~~XI~~] 11, Section 2 of the constitution of [~~the State of~~]

24 . 116307. 1

Underscored material = new  
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1 New Mexico and Section 11 of the Public Regulation Commission  
2 Act. except that appeals from the action of the commission shall  
3 be taken to the district court."

4 Section 48. TEMPORARY PROVISIONS--TRANSFER OF  
5 APPROPRIATIONS, FUNDS, PERSONNEL, PROPERTY, CONTRACTS, AND OTHER  
6 OBLIGATIONS--LEGAL AND ADMINISTRATIVE PROCEEDINGS--CONSTRUCTION  
7 OF REFERENCES.--

8 A. All appropriations, money, personnel and property  
9 of the New Mexico public utility commission or the state  
10 corporation commission are transferred to the public regulation  
11 commission.

12 B. All rules, regulations, tariffs, orders and other  
13 official acts of the New Mexico public utility commission or the  
14 state corporation commission shall continue in effect under and  
15 be administered and enforced by the public regulation commission  
16 until repealed, rescinded or otherwise nullified.

17 C. All contracts, debts and other obligations of the  
18 New Mexico public utility commission or the state corporation  
19 commission shall continue in effect and shall be enforceable by  
20 and against the public regulation commission.

21 D. All pending legal actions, appeals, removals to  
22 the supreme court and other legal proceedings of every  
23 description and all pending administrative proceedings that  
24 involve the New Mexico public utility commission or the state  
25 corporation commission shall be unaffected, and shall continue

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1 in the name of the public regulation commission.

2 E. All references in law, including statutes, rules,  
3 regulations, tariffs, orders and other official acts, to the New  
4 Mexico public utility commission or the state corporation  
5 commission shall be construed to be and shall mean the public  
6 regulation commission.

7 F. All references in law, including statutes, rules,  
8 regulations, orders and other official acts, to removal of state  
9 corporation commission orders or proceedings to the supreme  
10 court shall be construed to be and shall mean the appeal  
11 procedure provided in Section 11 of the Public Regulation  
12 Commission Act.

13 Section 49. TEMPORARY PROVISION--RESTRICTION ON  
14 EXPENDITURES.--The New Mexico public utility commission and the  
15 state corporation commission are prohibited from expending and  
16 encumbering more than fifty percent of their respective budgets  
17 and appropriations for fiscal year 1999. The financial control  
18 division of the department of finance and administration shall  
19 administer and enforce this section to assure that its  
20 restrictions are not violated.

21 Section 50. TEMPORARY PROVISION--1998 ELECTION FOR THE  
22 PUBLIC REGULATION COMMISSION.--The first election for the public  
23 regulation commission, which shall include all five  
24 commissioners, shall occur at the primary and general elections  
25 in 1998. The secretary of state shall designate the five

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1 positions for which candidacies will be accepted. There shall  
2 be no election for a state corporation commissioner in 1998.

3 Section 51. REPEAL. -- Sections 53-1-2 through 53-1-6,  
4 62-5-1 through 62-5-11, 63-7-14, 63-8-6 and 63-9-4 NMSA 1978  
5 (being Laws 1913, Chapter 68, Sections 2 and 3, Laws 1912,  
6 Chapter 83, Section 18, Laws 1913, Chapter 83, Section 11, Laws  
7 1951, Chapter 93, Section 1, Laws 1941, Chapter 84, Section 3,  
8 Laws 1977, Chapter 255, Section 121, Laws 1941, Chapter 84,  
9 Sections 4 through 8 and 10 through 13, Laws 1912, Chapter 78,  
10 Section 13, Laws 1955, Chapter 43, Section 6 and Laws 1965,  
11 Chapter 292, Section 4, as amended) are repealed.

12 Section 52. EFFECTIVE DATES. --

13 A. The effective date of the provisions of Sections  
14 1 through 48 and 51 of this act is January 1, 1999.

15 B. The effective date of the provisions of Section  
16 49 of this act is July 1, 1998.

17 C. The effective date of the provisions of Section  
18 50 of this act is July 1, 1997.

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**State of New Mexico  
House of Representatives**

**FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997**

**March 5, 1997**

**Mr. Speaker:**

**Your JUDICIARY COMMITTEE, to whom has been referred**

**HOUSE BILL 934**

**has had it under consideration and reports same with  
recommendation that it DO PASS, and thence referred to the  
APPROPRIATIONS AND FINANCE COMMITTEE.**

**Respectfully submitted,**

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**Thomas P. Foy, Chairman**

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FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

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Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 10 For 1 Against

Yes: 10

No: Larranaga

Excused: Rios, Sanchez

Absent: None

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Underscored material = new  
~~[bracketed material] = delete~~

# State of New Mexico House of Representatives

FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

March 8, 1997

Mr. Speaker:

Your APPROPRIATIONS AND FINANCE COMMITTEE, to  
whom has been referred

HOUSE BILL 934

has had it under consideration and reports same with  
recommendation that it DO PASS, amended as follows:

1. On pages 3 and 4, strike Section 6 in its entirety.
2. Renumber the succeeding sections accordingly.

Respectfully submitted,

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Max Coll, Chairman

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FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

HB-934

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Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 12 For 0 Against

Yes: 12

Excused: Buffett, Coll, Marquardt, Pearce, Townsend

Absent: None

M \H0934

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Underscored material = new  
[bracketed material] = delete

FORTY-THIRD LEGISLATURE

FIRST SESSION

March 11, 1997

HOUSE FLOOR AMENDMENT number 1 to HOUSE BILL 934, as amended

Amendment sponsored by Representative Gary K. King

1. On page 66, line 3, after "Sections" insert "1-19-34.2, ",

2. On page 66, line 5, after "being" insert "Laws 1993, Chapter 46, Section 13, ",

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Gary K. King

FORTY-THIRD LEGISLATURE  
FIRST SESSION

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HB 934, aa

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Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_  
(Chief Clerk) (Chief Clerk)

Date \_\_\_\_\_

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~~[bracketed material] = delete~~

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FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

HB 934/a

March 18, 1997

Mr. President:

Your CONSERVATION COMMITTEE, to whom has been referred

HOUSE BILL 934, as amended

has had it under consideration and reports same with recommendation that  
it DO PASS, amended as follows:

1. On page 12, line 5, after the period insert [NEW MATERIAL].
2. On page 14, lines 13 and 14, strike the brackets and line-through and strike "72,500".

The roll call vote on Amendment No. 2 was 5 For 1 Against.

Yes: 5

No: Sanchez

Excused: Griego, Kysar, Lyons, Tsosie

Absent: None

and thence referred to the JUDICIARY COMMITTEE.

Respectfully submitted,

**FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997**

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Michael S. Sanchez, Chair man

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 6 For 0 Against

Yes:

No: None

Excused: Gri ego, Kysar, Lyons, Tsosie

Absent: None

H0934C01

Underscored material = new  
[bracketed material] = delete